

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WILLIAM E COSDEN,

Petitioner,

V.

JEFFREY UTTECHT,

### Respondent.

**CASE NO. 3:14-CV-05739-BHS-JRC**

## REPORT AND RECOMMENDATION

The District Court has referred this petition for a writ of habeas corpus to United States

Magistrate Judge, J. Richard Creatura. The authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4. Petitioner seeks relief from a state conviction, thus, the petition is filed pursuant to 28 U.S.C. § 2254.

Petitioner William Cosden filed this habeas petition pursuant to § 2254 (Dkt. 23). Also pending is petitioner's motion to compel (Dkt. 30). On July 23, 2015, respondent filed a notice of mootness informing the Court that petitioner passed away on June 23, 2015. Dkt. 35, Exhibit 1.

In his habeas petition, petitioner sought release from DOC's custody (Dkt. 23). Because petitioner is now deceased, he can no longer satisfy the case or controversy requirement since he

1 no longer has a “personal stake in the outcome” of the case. *See Lewis v. Continental Bank*  
2 *Corp.*, 494 U.S. 472, 477–78 (1990) (The case or controversy requirement of Article III, Section  
3 2 of the United States Constitution must be present through all stages of federal judicial  
4 proceedings. Parties must continue to have a “‘personal stake in the outcome’ of the lawsuit.”).  
5 Further, the relief petitioner requested – for the Court to order his immediate release – cannot be  
6 granted in light of his recent death. *Spencer v. Kemna*, 523 U.S. 1, 7 (1998) (habeas petition  
7 challenging revocation of parole was moot upon expiration of inmate’s sentence); *Calderon v.*  
8 *Moore*, 518 U.S. 149, 150 (1996). Accordingly, the Court recommends that petitioner’s habeas  
9 petition (Dkt. 23) be dismissed as moot and his pending motion to compel (Dkt. 30) be denied as  
10 moot.

11 The Court recommends entry of the proposed order dismissing the action. The Court has  
12 not set a noting date 21 days from now because petitioner is now deceased and this action is  
13 moot. The Court recommends entry of the order dismissing the action when the District Court  
14 receives this Report and Recommendation.

15 Dated this 29th day of July, 2015.

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17 J. Richard Creatura  
18 United States Magistrate Judge  
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